

MINUTES OF THE MEETING
APPROPRIATIONS COMMITTEE
50TH LEGISLATIVE SESSION

The meeting of the Appropriations Committee was called to order by Chairman Rep. Gene Donaldson on March 5, 1987, at 1:00 p.m. in Room 104 of the State Capitol.

ROLL CALL: All members were present with Reps. Winslow, Nathe, and Poulsen arriving late. Also present were Judy Rippingale, LFA and Denise Thompson, Secretary.

HB 38:

Rep. Bob Pavlovich, HD #72, presented the bill by saying this bill was in the State Administration Committee where they took out section 2 on page 5 of the bill. That was basically what the appropriation is. He referred to a letter from Mr. Dave Hunter, Director of OBPP which states that with this section removed the appropriation would be only \$6,519, and the LFA determined zero (Exhibits 1 and 2). He said it was a veteran's preference bill. It has a scoring procedure where the veteran gets 5 points if he is a veteran and 10 points if he is a disabled veteran. It also states that if there is a RIF the same applies there. What the bill does is separate the able veterans from the disabled.

(39:A:7.17) Rep. Spaeth asked if the state should be using some sort of scored interview system, and also what is a scored procedure. Rep. Pavlovich remarked if a scored procedure is used, they would give a verbal or written test. Rep. Spaeth asked if scored procedures are a good procedure in Rep. Pavlovich's opinion. Rep. Pavlovich said he had no opinion on that.

PROPONENTS:

Mr. Dan Antonetti, State Director, Veterans Employment and Training for the U.S. Department of Labor, stated what HB 38 does is separates the handicapped from the veterans. Forty eight out of 49 states having veterans preference have been using a point system and a scored procedure. Montana does not. A disabled veteran must have a 30 percent disability or more to have a service connected disability. The multi-disabled veteran is not covered under the existing law. He strongly supported the bill.

(39:A:16.00) Joe Brand representing himself said all the bill is trying to do is be compatible with the state law. In other words, there are agencies that give verbal examinations but he doesn't agree with those kinds of

examinations because you can pick and choose the employees you want to hire for yourself. Written examination are the way we should go. The bill says that you must pass the examination before you can even be employed. Once you pass the examination with a verbal test, the points will be added for all of the people taking that examination.

OPPONENTS:

(39:A:17.17) Laurie Ekanger, Administrator of the State Personnel Division, Department of Administration stated that the executive branch of state government opposes the bill for two reasons. First, because it costs money. Second, because the objectives of the bill as it is now written are unclear. Other states which have the scored procedures have a separate set of professionals that design the test, administer the tests, and score the tests, these administrators are independent from the hiring agencies so they can defend the legality and objectivity of the tests. We do not hire that way in Montana. The Personnel Division writes some guidelines that have minimum standards for selection. Selection has to be based on a job analysis, criteria has to be job related, impartial people have to participate; with each manager in state government doing their own hiring. So a manager may only hire someone every year or so and do not have the expertise or time to design a legally defensible scored selection procedure. That is the primary concern (Exhibit 3).

(39:A:24.14) Jane Benson, Governor's Committee for Employment of the Disabled, stated Montana has already recognized their service and their need for help to re-enter the work force by adopting the 1983 Veterans and Handicapped Persons Employment Preference Act. This law has been in effect for over three years and the statistics are available to show that veterans are being hired in state government, including to managerial positions. They must be clearly qualified for these jobs or they wouldn't be hired; state government cannot operate any other way.

HB 38 will take apart what was accomplished as a result of the special session. It will give able veterans preference during layoffs, but not disabled civilians. It will give able veterans preference in all hirings and promotions throughout a public career, not just first hire. Veterans would not need to be state, county or city residents, but disabled civilians would. Disabled veterans could have 0 percent disability to be eligible, but a disabled civilian would still have to present evidence that they have difficulty getting jobs because of their disability in order to qualify. The 1983 law gives extra hiring consideration equally to both veterans and the disabled civilians. We believe that should be no difference (Exhibit 4).

(39:A:28:25) Mary Lou Garrett representing the Inter Departmental Coordinating Committee (ICCW), stated the committee is formed by the governor to identify policies and procedures in state government that affect women. The ICCW does not support HB 38, they support the policies that are in place and their resources have been expended enough.

Mr. Robert LeMieux, teacher of the deaf at the Montana School for the Deaf and Blind, representing the Governor's Committee on Employment of the Disabled and the advisory committee for SRS and also the Montana Association of the Deaf said that a compromise was reached which was acceptable to all sides in 1983 during the special session. The present bill has only been implemented three years. It is working and is fair and just. If HB 38 passes, fairness will be gone and competition for special treatments through laws will again consume time and energy and money. The present law is equitable and until empirical evidence shows a need for change, let it stand (Exhibit 5).

(39:A:39.06) Mr. Tim Harris of the Montana Independent Living Project and a disabled civilian testified the project strongly opposes HB 38. The passage of the bill will bring disparity to what is now a fair, hiring preference law. Assistance is well provided for in the existing law. Added changes are unnecessary (Exhibit 6).

Lynnette Stern, Department of Labor and Industry's Interdepartmental Committee for Women spoke against the bill. The bill would treat veterans as well as women inequitably and unfairly. This bill also tries to establish some type of merit system to using a back door approach. That type of system would take a lot of money. They believe the current Veteran's Preference law is preferable and fair (Exhibit 7).

Debra Jones representing the Women's Lobbyist Fund was opposed to the bill stating it was unnecessary, poorly conceived, and a wholesale change of the current veterans'/handicapped persons' preference law. They support the existing law (Exhibit 8).

Rep. Miller asked for information regarding how the other states run their programs and their comparison with the types of scoring procedures. He asked for a breakdown of states that have this information.

There was no action taken on the bill.

EXECUTIVE ACTION HB 201:

(39:B:1.06) Rep. Miller moved to TABLE HB 201. He stated it was discussed with Rep. Campbell and that Rep. Winslow has legislation of a similar nature. Rep. Quilici called the question. The motion CARRIED unanimously.

EXECUTIVE ACTION HB 392:

Rep. Miller stated this bill was Rep. Menahan's bill in which he wanted to take a wing at Warm Springs and make it into a veteran's nursing home. Rep. Menahan was in agreement with the subcommittee decision to table.

Rep. Miller moved to TABLE HB 392. Rep. Iverson called the question. Rep. Quilici voted NO. The motion CARRIED.

HB 472: (39:B:2:27)

Rep. Paula Darko, HD #2 explained HB 472 which was requested by the Child Support Advisory Council. The bill would establish a system of court mediators, (ten each) to oversee procedures where there is a dispute. There was an additional fee added in the Judiciary Committee of \$75 per person which would be \$150 per divorce to support the salaries and benefits for the mediators.

Mr. John McRae of the Child Support Advisory Council remarked as a result of the studies, they found specific recommendation that the mediation process. The problem in the past is that the old system of litigation in effect pits the parties against one another. It creates hostility in this process. The hostility is forever ongoing and alleviates the bulk of these. Mediation has been very successful. He referred to a report from the Delaware state program on mediation. In that program it states, the judges are extremely pleased with the mediation of child support matters and favor the mandatory approach because too many litigants refuse to use the procedure when the process was voluntary. The chief judge estimates that only a slim majority of the courts filings are referred to the judiciary and credits mediators and masters with resolving 80 percent of the filings.

Mr. McRae quoted it to say, "Thus, although a certain number of cases do proceed to both mediation and judicial hearing, they require less bench time than would be, had the case bypassed the mediation process." It is a very effective program.

Last year there were 5,455 domestic cases were filed in the district courts around the state in 1985. Fifty-six percent of those or about 3,055 are cases that involve children. He concurred that the amount of revenue would be approximately \$818,000.

(39:B:21.09) Rep. Peck referred to the \$35,000 for the mediators. He was concerned about the people that would be hired as these mediators. In his opinion, there would be different types of people in different parts of the state as

well as different workloads around the state. He felt perhaps the salary should be capped at \$35,000 with the judge making the decision as to what the salary would be.

Rep. Thoft asked if Rep. Darko would go through the qualification requirements that would be in the bill. Rep. Darko referred to the bill, section 5, page 4.

Rep. Bradley was concerned as to why attorneys or people with a legal background were exempt from that. Why is it necessary to have a degree in social science? Mr. Bill Harrington stated that the mediation system would be at a more humanistic rather than legalistic manner if these people were not related to the legal process.

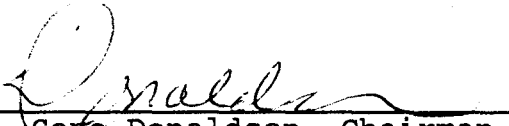
Rep. Darko replied the mediation process does work but it must be mandatory in order for it to work.

Action was delayed and Ms. Rippingale was asked to look at the statutory appropriation to see if it could be cleaned up by the chairman. He also was concerned about the fees being paid the district court and the monies flowing through correctly.

Judge Robert M. Holter presented written testimony for the committee (Exhibit 9).

ADJOURNMENT:

There being no further business before the committee, the meeting was adjourned at 2:30 p.m.



Rep. Gene Donaldson, Chairman

DAILY ROLL CALL

APPROPRIATIONS

COMMITTEE

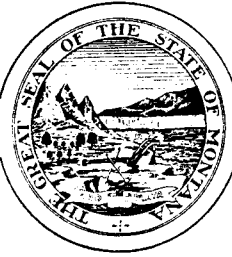
50th LEGISLATIVE SESSION -- 1987

Date 3/5/87

NAME	PRESENT	ABSENT	EXCUSED
DONALDSON, GENE Chairman			
THOFT, REP. BOB Vice Chair	✓		
WINSLOW, REP. CAL	✓	late	
BARDANOUVE, FRANCIS	✓		
BRADLEY, DOROTHY	✓		
CONNELLY, MARY ELLEN	✓		
DEVLIN, GERRY	✓		
IVERSON, DENNIS	✓		
MANUEL, REX	✓		
MENAHAN, RED	✓		
MENKE, LARRY	✓		
MILLER, RON	✓		
NATHE, DENNIS	✓	late	
PECK, RAY	✓		
POULSEN, HAROLD	✓	late	
QUILICI, JOE	✓		
REHBERG, DENNIS	✓		
SPAETH, GARY	✓		
SWIFT, BERNIE	✓		
SWITZER, DEAN	✓		

OFFICE OF THE GOVERNOR
BUDGET AND PROGRAM PLANNING

EXHIBIT 1
DATE 3/5/87
HB 38



TED SCHWINDEN, GOVERNOR

STATE CAPITOL

STATE OF MONTANA

(406) 444-3616

HELENA, MONTANA 59620

MEMORANDUM

TO: Representative Robert Pavolovich

FROM: David L. Hunter
Budget Director

A handwritten signature in cursive script that reads "David L. Hunter".

RE: HB38 - VETERANS PREFERENCE

DATE: February 16, 1987

If HB38 were amended to eliminate Section 2, the fiscal impact would be as follows:

Assumptions:

1. No scored procedures would be required.
2. Current selection procedures would not change.
3. Application materials, explanation of rights under preference act would have to be revised.
4. Use current State Application Form until supply is deleted.

Fiscal Impact:

These would be implementation costs and includes counties/cities.

Rule Adoption - 2 rules	\$2,020
Technical Assistance	950
Training for Hiring Authorities	2,349
Revise State Application Form	200
Recordkeeping System (PPP)	<u>1,000</u>
TOTAL	\$6,519

Technical Concerns:

The veterans preference in reduction of force (RIF) would increase the complexity of layoffs and the risk of litigation. It is impossible to estimate these potential additional costs to the state and local government.

The fiscal note submitted on HB38 reflected an annual fiscal impact of \$250,000. In comparison, the deletion of Section 2, would indicate a one time charge of \$6,500.

EXHIBIT
DATE 3/5/87
HB 38



STATE OF MONTANA

Office of the Legislative Fiscal Analyst

STATE CAPITOL
HELENA, MONTANA 59620
406/444-2986

JUDY RIPPINGALE
LEGISLATIVE FISCAL ANALYST

February 13, 1987

Representative Robert Pavlovich
Seat #64
Montana House of Representatives

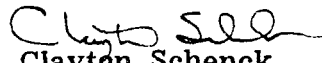
Dear Representative Pavlovich:

I have reviewed House Bill 38 for the fiscal impact if the requirements for scoring procedures are removed.

If section two of the bill is deleted as well as references to scoring procedures in other parts of the bill, there would be no significant costs involved in the administration of the bill requirements. As the point of the bill is to give employment preference to veterans through a scoring process, you may want to consider if your objective is still accomplished if section 2 is deleted.

Please contact me if I can be of further assistance.

Sincerely,


Clayton Schenck
Senior Fiscal Analyst

9/5/87
03/87
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Department of Administration
Testimony Opposing HB 38

1. A major policy change like this costs money.
 - A. The state will have to:
 1. Rewrite the rules covering all public employers.
 2. Retrain managers, county commissioners, city officials.
 3. Possibly set up a centralized system to design selection measures (\$250,000). The sponsor says this is not required but the Bill is silent on scored procedures.
 - B. The changes would increase legal risk.
 1. More mistakes may be made due to the increased complexity of two laws and the extension of preference to promotions and layoffs.

2. Current law, passed December 20, 1983, is working.
 - A. Since July 1, 1985, Veterans have been:
 1. 14% of the state's population.
 2. About 18% of the new hires to non-clerical jobs in state government.
 3. 20% of the new hires to management jobs.
 4. Nearly 40% of new hires to law enforcement.
 - B. Disabled veterans (0.47% of the population) were hired in 0.7% of the non-clerical jobs.
 - C. Law is only three years old.
 - D. Managers are trained on how to apply current law.

3. HB 38 separates disabled civilians and veterans into two different preference laws. For example:
 - A. Different employers are covered.
 - B. Veterans law includes promotions, layoffs, temporary jobs, mothers of veterans (not fathers), the disabled law does not.
 - C. There is a residency requirement for disabled, but not for veterans.

4. HB 38 is a complete change.
 - A. Changes the employers covered.
 - B. Changes the definition of preference.
 - C. Changes all the definitions and eligibility requirements for veterans -- including many more people than now, for example, many peacetime veterans.
 - D. Changes how promotions are made.
 - E. Changes how layoffs are made.
 - F. There is no evidence that the changes will work better than the present law.

For more information call Laurie Ekanger, or Mark Cress, State Personnel Division, 444-3871.

708 Second St.
Helena, MT 59601
March 5, 1987

Members, House Appropriations Committee
Montana Legislature

TESTIMONY IN OPPOSITION TO H.B. 38 VETERANS' PREFERENCE

My name is Jane Reed Benson and I speak as a member of the Governor's Committee for Employment of the Disabled. My membership occurred because I am head of personnel and equal employment opportunity for one of the executive branch state agencies. The Governor's Committee is opposed to H.B. 38.

The veterans of military service, and particularly the disabled ones, have had their lives disrupted while meeting their obligations to this nation. That is why they deserve help when they return to civilian life. And so they DO receive many extra benefits from the federal government, including medical care and financing for education and housing. The State of Montana has ALREADY recognized their service and their need for help to re-enter the workforce by adopting the 1983 Veterans and Handicapped Persons Employment Preference Act. That law came about because of the special legislative session called for only that purpose. That law serves both needy groups of Montanans whose lives have been disrupted--veterans and disabled civilians. It has been in effect for over three years and the statistics are available to show that veterans are being hired in state government, including to managerial positions. They are clearly qualified for these jobs or they wouldn't be hired; state government cannot operate any other way. The Governor's Committee cannot understand why veterans are asking for even more than what was already agreed upon.

H.B. 38 will take apart what was accomplished as a result of the special session. If enacted H.B. 38 will give even able veterans preference during layoffs, but not disabled civilians. It will give even able veterans preference in all hirings and promotions throughout a public career, not just first hire; it will not do that for disabled civilians. Veterans would not need to be state, county or city residents, but disabled civilians would. Disabled veterans could have 0 percent disability to be eligible, but a disabled civilian would still have to present evidence that they have difficulty getting jobs because of their disability in order to qualify for preference.

These are the same points debated in 1985 when a similar bill was introduced. The Governor's Committee that I speak for and many other groups stated then that such disparities are unfair. The present 1983 law gives extra hiring consideration equally to both veterans and the disabled civilians. We believe that there must be no difference.

Thank you for the opportunity to testify.

Jane Reed Benson
Jane Reed Benson

DATE 3/15/81
HB 38

qualify as a civilian

c. No citizenship requirements

d. Preference applied throughout a career - not just initial hiring.

These added preferences leaves us civilian disabled people in the position of having no preference when competing with a veteran.

Let the present law remain until there is strong evidence that it needs changing.

Veterans certainly have rights to some preference and I have no disagreement with that promise. However civilian disabled individuals also have legitimate claim to some preference also., The present law is equitable and until empirical evidence shows a need for change, let it stand. I urge you to let HB38 wait until there is evidence that a change is needed.

MONTANA INDEPENDENT LIVING PROJECT

1301 Eleventh Avenue
Helena, Montana 59601

EXHIBIT 6
DATE 3/5/87
38
(406) 442-5755
TOLL-FREE 1-800-233-0805 (VOICE/TDD)

My name is Tim Harris. I am an employee of the Montana Independent Living Project and a disabled civilian.

The Independent Living Project strongly opposes HB38. Passage of this bill will bring disparity to what is now a fair, hiring preference law.

It seems to me that Veterans, as well as the Disabled, are in need of assistance in overcoming long held biases in hiring practices.

I believe that assistance is well provided for in the existing law. Additional changes are unnecessary and would bring confusion to a situation that needs no confusion.

I have great respect and admiration for the Veterans. I believe we all have. But the war is over, and now we need to work together to build a better world to live in.

Thank you.

Montana Independent Living Project
1301 Eleventh Avenue
Helena, Montana 59601

TESTIMONY OF LYNNETTE STERN, DOLI ICW COORDINATOR
HOUSE BILL 38
HOUSE APPROPRIATIONS COMMITTEE
MARCH 5, 1987

My name is Lynnette Stern, and I have taken personal time to be here today to represent the Department of Labor and Industry's Intradepartmental Committee for Women. I will speak only to the Veteran's Preference portion of House Bill 38.

We oppose House Bill 38. We believe, if passed, this bill would treat veterans as well as women inequitably and unfairly.

It does not cover all veterans seeking public employment. Those seeking jobs in the executive branch or the university system are covered, but those seeking the same kind of employment in the legislative branch or in a school district are not covered. Why this inequity?

Veterans will have five points added to their job examination scores. But the unmarried surviving spouse of a veteran will have ten points added to the examination score. Why this disparity? Spouses did not serve in the armed forces and many were not married at the time their husbands served in the armed forces. Why should they get more points than the veteran himself? In fact, why should they get any points at all?

Veterans who are retired under a retirement system such as the Public Employee Retirement System or teacher's retirement are not eligible. Why?

House Bill 38 gives Veteran's Preference in retention in layoff situations if the position is not covered by a collective bargaining agreement. But if the veteran is a good union member covered by a collective bargaining agreement, he doesn't get preference.

If I were a veteran, I would object to all of these inequalities.

This bill also tries to establish some type of merit system by using a back door approach. We don't object to a merit system -- In fact, we would look favorably on one. But a real merit system must ensure that examination questions are related to successful job performance and the same knowledges, skills and abilities are applicable to the same type of job whether in city, county or state government.

A system such as this doesn't just happen, it must be purposeful. It takes a lot of work by a lot of people and unfortunately costs a lot of money.

We believe that the current Veteran's Preference law is preferable and fair.

Thank you.

WOMEN'S LOBBYIST FUND

Box 1099
Helena, MT 59624
449-7917



8
3/5/87
38

March 5, 1987

TESTIMONY IN OPPOSITION TO HB 38

Mr. Chairman and Members of the House Appropriations Committee:

My name is Debra Jones. I represent the Women's Lobbyist Fund, a coalition of 40 organizations representing nearly 7000 individuals in Montana. I urge this committee to oppose HB 38. The bill is an unnecessary, poorly conceived, wholesale change of the current veterans'/handicapped persons' preference law. Opposing this bill is in no way voting against vets. It's voting against a bad bill.

The Women's Lobbyist Fund continues to support the current Veteran's and Handicapped Persons' Employment Preference Act. As many of you know and well remember, the preference issue was addressed by the 1983 and 1985 legislatures as well as the 1983 special session. The sole purpose of the 1983 special session was to address preference. The resulting compromise law of 1983 was carefully engineered to give a fair preference while not discriminating against non-vets. HB 38 would discard all the work of the past.

The Personnel Division has already pointed out the logistical problems that this bill creates and the burden it would place on state agencies. They have also pointed out additional potential costs to the state resulting from lawsuits if vets are given preference in promotions and reductions in force.

Finally, I must reemphasize that the current system works. Vets are being hired at a rate comparable to or better than their representation in the population. I fail to understand what the problem is with the current law, and why we keep spending so much time and money on this issue.

I urge you to support the existing preference law and give HB 38 a "do not pass" recommendation.

WITNESS STATEMENT

DATE 3/5/87
HB 472

NAME Robert M. Holter BILL NO. HB 472

ADDRESS Box 974 , Libby, Montana 59923 DATE 3/5/87

WHOM DO YOU REPRESENT? Child Support Advisory Council

SUPPORT X OPPOSE _____ AMEND _____

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

First let me say that House Bill 472 is neither a lawyers or judges relief bill. We could continue to operate under the present procedure and continue producing social problems. The Child Support Enforcement Council early on learned the public is dissatisfied with the present procedure.

Under the present system, the parties have no opportunity to mutually solve problems caused by the impending divorce. They are dissatisfied with solutions impressed upon them by the system. Their dissatisfaction frequently boils over into non-compliance with custodial orders, visitation orders, and support orders. By contrast, people usually keep their mediated agreements.

We know the cost of failure to pay child support orders runs into billions of dollars annually in the United States. Child support frequently requires public welfare assistance.

We feel that if we can at least partially relieve the dissatisfaction caused by the present procedure and permit divorcing couples to share in solving their own problems. The overall public economic gain will far out weight the immediate cost of such procedures.

VISITOR'S REGISTER

Appropriations

COMMITTEE

BILL(S) HB 38

DATE 5/5/87

SPONSOR(S) _____

NAME	REPRESENTING	BILL NO.	SUP-PORT	OP-POSE
Dianne Miller	ASST			
Lynette Stern	Dpt of Labor ICW	HB 38		X
JANE BOUSEN	Gov. Committee for Employ. of the Disabled	HB 38		X
Wanda Lopez	Dept of Labor	412		X
Robert LeMieux	Governor's Committee ^{on Employment of} for the Disabled	HB 38		X
IAN ANTONIETTI	USDL - VETS		X	
George O. Foster	United Veterans Committee	HB 38	X	
Steve McRae	CHILD SUPPORT ADVISORY Council	HB 472	X	
Bill Haggerty	"	472	X	
CAM VASSI	Mont. INDEPENDENT LIVING Proj	38		X
Joe Manion	American Legion	38	X	
Mark Beards	Governor's Committee on Employment of Disabled			X
JOE BRAND	SELF	38	X	
Ray Murray	U of Maryland	611	X	
Ann Smith	MSU	611	V	
Beverly Gibson	MACO	38		V
Mary Lou Harris	ICCW	38		V

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR VISITOR'S STATEMENT
IF YOU HAVE WRITTEN COMMENTS, PLEASE GIVE A COPY TO THE SECRETARY

